

REFERENCE TITLE: well impacts; contamination

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2484

Introduced by
Representatives Mason: Adams, Bradley, Burns J, Tobin

AN ACT

AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006,
CHAPTER 56, SECTION 1; AMENDING SECTION 45-606, ARIZONA REVISED STATUTES;
RELATING TO WELLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-596, Arizona Revised Statutes, as amended by
3 Laws 2006, chapter 56, section 1, is amended to read:

4 45-596. Notice of intention to drill; fee

5 A. In an area not subject to active management, a person may not drill
6 or cause to be drilled any well or deepen an existing well without first
7 filing notice of intention to drill pursuant to subsection C of this section
8 or obtaining a permit pursuant to section 45-834.01. Only one notice of
9 intention to drill is required for all wells that are drilled by or for the
10 same person to obtain geophysical, mineralogical or geotechnical data within
11 a single section of land.

12 B. In an active management area, a person may not drill or cause to be
13 drilled an exempt well, a replacement well in approximately the same location
14 or any other well for which a permit is not required under this article,
15 article 7 of this chapter or section 45-834.01 or deepen an existing well
16 without first filing a notice of intention to drill pursuant to subsection C
17 of this section. Only one notice of intention to drill is required for all
18 wells that are drilled by or for the same person to obtain geophysical,
19 mineralogical or geotechnical data within a single section of land.

20 C. A notice of intention to drill shall be filed with the director on
21 a form which is prescribed and furnished by the director and which shall
22 include:

- 23 1. The name and mailing address of the person filing the notice.
- 24 2. The legal description of the land upon which the well is proposed
25 to be drilled and the name and mailing address of the owner of the land.
- 26 3. The legal description of the location of the well on the land.
- 27 4. The depth, diameter and type of casing of the proposed well.
- 28 5. Such legal description of the land upon which the groundwater is
29 proposed to be used as may be required by the director to administer this
30 chapter.
- 31 6. When construction is to begin.
- 32 7. The proposed uses to which the groundwater will be applied.
- 33 8. The name and well driller's license number of the well driller who
34 is to construct the well.
- 35 9. The design pumping capacity of the well.
- 36 10. If for a replacement well, the maximum capacity of the original
37 well and the distance of the replacement well from the original well.
- 38 11. Proof that the director determines to be satisfactory that the
39 person proposing to construct the well holds a valid license issued by the
40 registrar of contractors pursuant to title 32, chapter 10 and that the
41 license is of the type necessary to construct the well described in the
42 notice of intention to drill. If the proposed well driller does not hold a
43 valid license, the director may accept proof that the proposed well driller
44 is exempt from licensing as prescribed by section 32-1121.

1 12. If any water from the proposed well will be used for domestic
2 purposes as defined in section 45-454, evidence of compliance with the
3 requirements of subsection F of this section.

4 13. If for a second exempt well at the same location for the same use
5 pursuant to section 45-454, subsection I, proof that the requirements of that
6 subsection are met.

7 14. If for a well to obtain geophysical, mineralogical or geotechnical
8 data within a single section of land, the information prescribed by this
9 subsection for each well that will be included in that section of land before
10 each well is drilled.

11 15. Such other information as the director may require.

12 D. Upon receiving a notice of intention to drill and the fee required
13 by subsection ~~I~~ J of this section, the director shall endorse on the notice
14 the date of its receipt. The director shall then determine whether all
15 information that is required has been submitted and whether the requirements
16 of subsection C, paragraphs 11 and 12 AND SUBSECTION I of this section have
17 been met. If so, within fifteen days of receipt of the notice, the director
18 shall record the notice, mail a drilling card that authorizes the drilling of
19 the well to the well driller identified in the notice and mail written notice
20 of the issuance of the drilling card to the person filing the notice of
21 intention to drill at the address stated in the notice. Upon receipt of the
22 drilling card, the well driller may proceed to drill or deepen the well as
23 described in the notice of intention to drill. If the director determines
24 that the required information has not been submitted or that the requirements
25 of subsection C, paragraphs 11 and 12 OR SUBSECTION I of this section have
26 not been met, the director shall mail a statement of the determination to the
27 person giving the notice to the address stated in the notice, and the person
28 giving the notice may not proceed to drill or deepen the well.

29 E. The well shall be completed within one year after the date of the
30 notice unless the director approves a longer period of time pursuant to this
31 subsection. If the well is not completed within one year or within the time
32 approved by the director pursuant to this subsection, the person shall file a
33 new notice before proceeding with further construction. At the time the
34 drilling card for the well is issued, the director may provide for and
35 approve a completion period that is greater than one year but not to exceed
36 five years from the date of the notice if both of the following apply:

37 1. The proposed well is a nonexempt well within an active management
38 area and qualifies as a replacement well in approximately the same location
39 as prescribed in rules adopted by the director pursuant to section 45-597.

40 2. The applicant has submitted evidence that demonstrates one of the
41 following:

42 (a) This state or a political subdivision of this state has acquired
43 or has begun a condemnation action to acquire the land on which the original
44 well is located.

1 (b) The original well has been rendered inoperable due to flooding,
2 subsidence or other extraordinary physical circumstances that are beyond the
3 control of the well owner.

4 F. If any water from a proposed well will be used for domestic
5 purposes as defined in section 45-454 on a parcel of land of five or fewer
6 acres, the applicant shall submit a well site plan of the property with the
7 notice of intention to drill. The site plan shall:

8 1. Include the county assessor's parcel identification number.

9 2. Show the proposed well location and the location of any septic tank
10 or sewer system that is either located on the property or within one hundred
11 feet of the proposed well site.

12 3. Show written approval by the county health authority that controls
13 the installation of septic tanks or sewer systems in the county, or by the
14 local health authority in areas where the authority to control installation
15 of septic tanks or sewer systems has been delegated to a local authority. In
16 areas where there is no local or county authority that controls the
17 installation of septic tanks or sewer systems, the applicant shall apply for
18 approval directly to the department of water resources.

19 G. Before approving a well site plan submitted pursuant to subsection
20 F of this section, the county or local health authority or the department of
21 water resources, as applicable, pursuant to subsection F of this section,
22 shall review the well site plan and determine whether the proposed well
23 location complies with applicable local laws, ordinances and regulations and
24 any laws or rules adopted under this title and title 49 regarding the
25 placement of wells and the proximity of wells to septic tanks or sewer
26 systems. If the health authority or the department of water resources, as
27 applicable, pursuant to subsection F of this section, finds that the proposed
28 well location complies with this title and title 49 and with local
29 requirements, it shall endorse the site plan and the proposed well placement
30 in a manner indicating approval. On endorsement, the director of water
31 resources shall approve the construction of the well, if all remaining
32 requirements have been met. If the health authority is unable to determine
33 whether the proposed well location complies with this title and title 49 and
34 local requirements, it shall indicate this on the site plan and the decision
35 to approve or reject the proposed construction rests with the director of
36 water resources. If parcel size, geology or location of improvements on the
37 property prevents the well from being drilled in accordance with this title
38 and title 49 or local requirements, the property owner may apply for a
39 variance. The property owner shall make the request for a variance to the
40 county or local authority if a county or local law, ordinance or regulation
41 prevents the proposed construction. If a law or rule adopted under this
42 title or title 49 prevents the proposed construction, the property owner
43 shall make the request for a variance directly to the department of water
44 resources. The request for a variance shall be in the form and shall contain
45 the information that the department of water resources, county or local

1 authority may require. The department of water resources, or the county or
2 local authority whose law, ordinance or regulation prevents the proposed
3 construction, may expressly require that a particular variance shall include
4 certification by a registered professional engineer or geologist that the
5 location of the well will not pose a health hazard to the applicant or
6 surrounding property or inhabitants. If all necessary variances are
7 obtained, the director of water resources shall approve the construction of
8 the well if all remaining requirements have been met.

9 H. If a well that was originally drilled as an exploration well, a
10 monitor well or a piezometer well or for any use other than domestic use is
11 later proposed to be converted to use for domestic purposes as defined in
12 section 45-454, the well owner shall file a notice of intention to drill and
13 shall comply with this section before the well is converted and any water
14 from that well is used for domestic purposes.

15 I. IF THE PROPOSED WELL LOCATION IS WITHIN THE BOUNDARIES OF A
16 REMEDIAL ACTION SITE, OR WITHIN ONE MILE OF THE BOUNDARIES OF A REMEDIAL
17 ACTION SITE, THE DIRECTOR SHALL NOT APPROVE THE DRILLING OF THE WELL IF THE
18 DIRECTOR DETERMINES THAT THE WELL WILL LIKELY CAUSE THE MIGRATION OF
19 CONTAMINATED GROUNDWATER FROM THE REMEDIAL ACTION SITE TO ANOTHER WELL,
20 RESULTING IN UNREASONABLY INCREASING DAMAGE TO THE OWNER OF THE WELL OR
21 PERSONS USING WATER FROM THE WELL. IN MAKING THIS DETERMINATION, THE
22 DIRECTOR OF WATER RESOURCES SHALL FOLLOW THE APPLICABLE CRITERIA IN THE RULES
23 ADOPTED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-598,
24 SUBSECTION A AND SHALL CONSULT WITH THE DIRECTOR OF ENVIRONMENTAL QUALITY.
25 FOR THE PURPOSES OF THIS SUBSECTION:

26 1. "CONTAMINATED GROUNDWATER" MEANS GROUNDWATER THAT HAS BEEN
27 CONTAMINATED BY A RELEASE OF A HAZARDOUS SUBSTANCE, AS DEFINED IN SECTION
28 49-201.

29 2. "REMEDIAL ACTION SITE" MEANS ANY OF THE FOLLOWING:

30 (a) THE SITE OF A REMEDIAL ACTION UNDERTAKEN PURSUANT TO THE
31 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF
32 1980, AS AMENDED (P.L. 96-510; 94 STAT. 2767; 42 UNITED STATES CODE SECTIONS
33 9601 THROUGH 9657), COMMONLY KNOWN AS "SUPERFUND".

34 (b) THE SITE OF A CORRECTIVE ACTION UNDERTAKEN PURSUANT TO TITLE 49,
35 CHAPTER 6.

36 (c) THE SITE OF A VOLUNTARY REMEDIATION ACTION UNDERTAKEN PURSUANT TO
37 TITLE 49, CHAPTER 1, ARTICLE 5.

38 (d) THE SITE OF A REMEDIAL ACTION UNDERTAKEN PURSUANT TO TITLE 49,
39 CHAPTER 2, ARTICLE 5.

40 (e) THE SITE OF A REMEDIAL ACTION UNDERTAKEN PURSUANT TO THE RESOURCE
41 CONSERVATION AND RECOVERY ACT OF 1976 (P.L. 94-580; 90 STAT. 2795; 42 UNITED
42 STATES CODE SECTIONS 6901 THROUGH 6992).

43 (f) THE SITE OF REMEDIAL ACTION UNDERTAKEN PURSUANT TO THE DEPARTMENT
44 OF DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (P.L. 99-499; 100 STAT. 1719; 10
45 UNITED STATES CODE SECTION 2701).

1 ~~I~~ J. A notice of intention to drill filed under this section shall
2 be accompanied by a filing fee of one hundred fifty dollars, except that a
3 notice filed for a proposed well that will not be located within an active
4 management area or an irrigation nonexpansion area, that will be used solely
5 for domestic purposes as defined in section 45-454 and that will have a pump
6 with a maximum capacity of not more than thirty-five gallons per minute shall
7 be accompanied by a filing fee of ~~fifty dollars if filed before July 1, 2004,~~
8 ~~seventy five dollars if filed from July 1, 2004 through June 30, 2005 and~~ one
9 hundred dollars ~~if filed on or after July 1, 2005~~. The director shall
10 deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant
11 to this subsection in the well administration and enforcement fund
12 established by section 45-606.

13 Sec. 2. Section 45-606, Arizona Revised Statutes, is amended to read:

14 45-606. Well administration and enforcement fund; purpose

15 A. The well administration and enforcement fund is established
16 consisting of fees paid to the department pursuant to section 45-596,
17 subsection ~~I~~ J and section 45-599, subsection J. The department shall
18 administer the fund. Monies in the fund are continuously appropriated and
19 shall be used by the director for the following purposes:

20 1. For the reasonable and necessary costs of the department to
21 implement this article.

22 2. For compliance monitoring, investigation and enforcement activities
23 of the department pertaining to the construction, replacement, deepening and
24 abandonment of wells and capping of open wells under this article.

25 B. The fund shall be a separate account on the books of the
26 department. Monies remaining in the fund at the end of the fiscal year
27 remain in the fund and are exempt from the provisions of section 35-190
28 relating to the lapsing of appropriations. On notice from the director, the
29 state treasurer shall invest and divest monies in the fund as provided by
30 section 35-313, and monies earned from investment shall be credited to the
31 fund.